

BOARD OF APPEALS CASE NO. 5189

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BEFORE THE

APPLICANT: Anna Marie Chwastiak

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ZONING HEARING EXAMINER

REQUEST: Variance to allow an attached garage within the required side yard setback and within a recorded easement; 20 Neptune Drive, Joppa

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 10/24/01 & 10/31/01

HEARING DATE: December 17, 2001

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Record: 10/25/01 & 11/2/01

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Anna Marie Chwastiak, is requesting a variance, pursuant to Section 267-26C(6) of the Harford County Code, to allow an attached garage within the recorded easement, and a variance, pursuant to Ordinance 6, Section 10.05, to allow an attached garage within the required ten (10) foot side yard setback (5 feet 4 inches proposed), in an R3/Urban Residential District.

The subject parcel is located at 20 Neptune Drive, Joppatowne-Rumsey Island and is more particularly identified on Tax Map 69/Grid 2A/Parcel 153. The subject parcel consists of 0.37± acres (16, 098 square feet), is presently zoned R3/Urban Residential District and is entirely within the First Election District.

The Applicant, Anna Marie Chwastiak, appeared and testified that her lot is very long and narrow. There is a frame wooden structure that was behind her house that has been serving as a makeshift garage for some years. The Applicant described the structure as somewhat ramshackle and probably not up to Code requirements regarding construction requirements. In order to drive a vehicle into the garage one must make a very sharp turn and then drive across an existing patio area. The Applicant intends to construct a single car garage alongside her house opening to the street. The existing structure will be removed. The witness describes the new garage as being far more compatible with other existing garages in the neighborhood and would make more sense from a safety standpoint. The witness stated that there is a utility easement along that side of the house and the proposed garage would encroach into the easement area by 5 feet 9 inches (5' 9"). Without a variance, her house could not have a garage.

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The witness did not feel as though any adverse impact would result from a grant of the variance and stated that removal of the existing structure coupled with construction of the proposed garage would reduce the footprint of the house and impervious surface area of the property.

The Department of Planning and Zoning recommends approval of the request. Because the property is within the Critical Area, the Department recommends mitigative plantings to which the Applicant agreed. Additionally, the Department of Public Works wrote a letter to the Applicant (Attachment 10), indicating their approval of locating the garage within the easement as proposed by the Applicant.

CONCLUSION:

The Applicant is requesting a variance pursuant to Section 267-26C(6) of the Harford County Code, to allow an attached garage within the recorded easement, and a variance pursuant to Ordinance 6, Section 10.05, to allow an attached garage within the required ten (10) foot side yard setback (5.4 feet proposed) in an R3/Urban Residential District.

Section 267-26C(6) of the Harford County Code provides:

“No accessory use or structure, except fences, shall be located within any recorded easement area.”

The Harford County Code, pursuant to 267-11 permits variances and provides:

“Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.”

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Based on the testimony of the witnesses and the Staff Report findings, the Hearing Examiner finds that the property is very long and narrow and constrained to one side by the existence of a utility easement. If the easement were not present this Applicant would only need a slight setback variance in order to construct this garage. There is little or no room to the rear of the house to construct a garage and the existing structure is less than desirable from a location or safety standpoint. Adjacent neighbors, by way of letters to the file, have voiced their support for the Applicant and they do not believe there will result from the grant any adverse impacts to their property.

The Hearing Examiner concludes that the unique dimensions and configurations of this parcel, coupled with the location of a public easement, result in the need for the variance requested herein. Garages of this size and type are commonly found within the neighborhood and throughout Harford County and without the variance, the Applicant would be unable to construct a usable garage. The Department of Public Works has expressed their approval of the encroachment into the easement and the setback variance requested is very minor in nature.

The Hearing Examiner recommends approval subject to the following conditions:

1. The Applicant obtain any and all necessary permits and inspections.
2. The existing structure be removed entirely from the property.
3. The Applicant submit a litigation landscaping plan for review and approval by the Department of Planning and Zoning.
4. That should the Department of Public Works ever require removal of the garage from the easement, said garage shall be promptly removed at the expense of the homeowner.

Date JANUARY 17, 2002

William F. Casey
Zoning Hearing Examiner